

### **REMARKS**

In response to the Office Action dated September 20, 2004, Applicant respectfully requests reconsideration and withdrawal of the rejection of the claims. The indication that claims 4 and 5 contain allowable subject matter is noted with appreciation. The rewriting of those claims in independent form is being held in abeyance, pending consideration of this response.

Claims 1-3 and 6-9 were rejected under 35 U.S.C. §102, on the grounds that they were considered to be anticipated by the Talavera patent (US 5,884,402). Claim 10 was rejected under 35 U.S.C. § 103 on the basis of the Talavera patent. It is respectfully submitted that the Talavera patent neither anticipates, nor otherwise suggests the claimed subject matter.

Claim 1 recites a hair trimming device that includes a first body member having a first end that is pivotally secured with a first end of a second body member for relative pivotal movement. The first body member includes a brush portion at a second end distal from the first end, and this brush portion includes a recess portion. The second body member has first and second lever members that are pivotally engaged with each other.

Among other features, the forgoing claim recitations state that the first end of the first body member is secured with a first end of the second body member, for relative pivotal movement. Referring to the embodiment disclosed in Figure 1 of the application, for example, it can be seen that the second body member 20, comprising the two lever members 22 and 24, is secured to the first body member 12 at a pivot point 18 located at the end of the body member 12 that is remote from the brush portion 14.

Turning now to the Talavera patent, the Office Action interprets the roller 16 and lever 22 as corresponding to the claimed second body member. However, unlike the arrangement recited in claim 1, this “body member” is not pivotally secured to an end of the brush body 12. Rather, as is apparent from Figure 1 of the patent, each of the roller 16 and lever 22 is pivotally attached near the center of the brush body 12. As such, the Talavera patent cannot be interpreted to anticipate claim 1, nor any of its dependent claims.

In addition to the foregoing distinction, claim 9 recites that, when the second body member is in its open position, the angle between the first lever member and the first body member is different from the angle between the second lever member and the first body member. For example, as illustrated in the embodiment of Figure 1, the angle between the first lever 20 and the first body 12 is much smaller than the angle between the second lever 24 and the body 12. In contrast, since both of the roller 16 and the lever 22 of the Talavera patent are connected in a symmetrical manner at the center of the brush body 12, it can be seen from Figure 8 that each has approximately the same angle relative to the brush body, when in the open position. For this additional reason, therefore, the subject matter of claim 9 is not anticipated by the Talavera patent.

New claim 11 recites a further distinguishing feature of the invention, namely that the first lever is pivotally secured to the first body member at one end and is pivotally engaged with the second lever at a second, distal end. In contrast, in the arrangement of the Talavera patent, the roller 16 and lever 22 are engaged with each other at the same end at which they are attached to the brush body 12.




In view of the foregoing, it is respectfully submitted that all pending claims are allowable over the Talavera patent. Reconsideration and withdrawal of the rejection is therefore respectfully requested.

Respectfully submitted,

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